

REMARKS

Reconsideration and allowance of the subject application in view of the foregoing amendments and the following remarks is respectfully requested. Entry of the Amendment under Rule 116 is merited as it raises no new issues and requires no further search.

Claims 1-22 and 24-38 are pending in this Application. By this Amendment, claims 1, 12 and 16 are amended. Applicants respectfully submit, however, that the claims are not narrowed by such an amendment since such amendment only makes explicit that which was implicitly recited in the original claims. No new matter is presented in this Amendment.

Rejections under 35 USC §112, first paragraph

Claims 1-11 and 37 stand rejected under 35 U.S.C. §112, first paragraph, as failing to comply with the written description requirement. This rejection is respectfully traversed.

The Examiner alleges that the phrase “mobile communication terminal ... and receives GPS satellite longitude and latitude coordinate values from the position determining server” added to claim 1 in the response filed November 17, 2008 has not been described or found in the specification. Applicants respectfully submits that at page 21, lines 6-11, and page 22, lines 5-10, the specification describes wherein the position determining server 162 transmits a “Provide Location Response” message to the mobile communication terminal 110 that includes longitude and latitude values. In addition, at page 14, lines 13-22, the specification describes wherein the position determining server calculates longitude and latitude coordinate values and transmits these values to the LBS platform 170. Although Applicants acknowledges that the term “coordinate” does not always precede the term “values,” Applicants respectfully submit that one of ordinary skill in the art would understand that “longitude and latitude values” and “longitude and latitude coordinate values” are in this instance synonymous. Applicants respectfully submit that there is a strong presumption that an adequate written description of the claimed invention is present when the application is filed, and that the PTO has the initial burden of presenting by a preponderance of evidence why a person skilled in the art would not recognize in Applicants' disclosure a description of the invention defined by the claims. In re Wertheim, 541 F.2d 257, 263, 191 USPQ 90, 97 (CCPA 1976) (“we are of the opinion that the PTO has the initial burden of presenting evidence or reasons why persons skilled in the art would not recognize in the disclosure a description of the

invention defined by the claims").

Based upon the above and because the PTO has failed to meet the burden of presenting why a person of ordinary skill in the art would not recognize in Applicants' disclosure a description of the invention defined by the claims, Applicants respectfully submit that one of ordinary skill in the art would reasonably interpret "mobile communication terminal ... and receives GPS satellite longitude and latitude coordinate values from the position determining server" as being supported in the specification.

Notwithstanding the above arguments, the term "longitude and latitude coordinate values" is replaced by "longitude and latitude values" to obviate the rejection thereto. In view of the foregoing, Applicants respectfully submit that claims 1-11 and 37 fully complies with 35 U.S.C. §112, first paragraph. Accordingly, withdrawal of the rejection is respectfully requested.

Rejections under 35 USC §112, second paragraph

The Patent and Trademark Office (PTO) rejects claims 1-11 and 37 under 35 U.S.C. §112, second paragraph, asserting that there is insufficient antecedent basis for the term "the information" in line 19 of claim 1. Applicants amend claim 1 to replace the phrase "the information" with the phrase "the GPS satellite longitude and latitude values" that appears on line 7 of amended claim 1. Accordingly, withdrawal of the rejection is respectfully requested.

Rejections under 35 USC §103(a)

Claims 1, 5-6, 9-12, 14-22, 24-32, and 36 stand rejected variously under 35 U.S.C. §103(a) over Richton (US 6,650,902) in view of Iwatsuki et al. (US 2004/0019676), Beauregard et al. (US 2004/0193373) and Fuchs et al. (US 2003/0069694). In addition claims 2-4, 7-8, 13, and 33-35 stand rejected over Richton, Iwatsuki, Beauregard, Fuchs and further in view of well known prior art (MPEP 2244.03). In addition, claims 37-38 stand rejected over Richton, Iwatsuki, Beauregard, Fuchs and further in view of Chen (US 2004/0119612). In response, claims 1, 12, and 16 are amended to only make explicit that which was implicitly recited in the original claims, and as presented below, amended and unamended claims are believed to be patentable over the applied art for the failure of the applied art to not only disclose, teach or suggest all of Applicants' recited claim features, but in addition fails to present any apparent reason to combine references or modify prior

art to create the Applicants' allegedly obvious claim elements.

First, claim 1 recites a system for monitoring performance of a position determination of a mobile communication terminal by using a wireless network and an A(Assisted)-GPS (Global Positioning System). Applicants respectfully submit that none of the applied references relates to the recited system.

Second, the applied references fail to disclose, teach, or suggest all of the recited claim elements. For example, the Examiner alleges that Richton discloses in Figs. 2-3 a test device. Applicants respectfully disagree. Richton appears to only disclose a wireless telecommunications system that uses location or position information to initiate the sending of location-specific information to travelers. Applicants respectfully request the Examiner to identify, preferably using column and line, where disclosure of the above-mentioned subject matter is to be found.

In addition, the Examiner admits that Richton fails to disclose wherein the Location Based Service (LBS) program analyses and displays GPS satellite information, and relies upon Iwatsuki to remedy the deficiencies of Richton. Applicants respectfully disagree and submit that Iwatsuki appears to only disclose a network operation monitoring system and nowhere mentions GPS satellites, let alone displaying GPS satellite information distinctively indicating with a different color, text or pattern on a screen displaying more than one concentric circles and 4 directional intersections, the concentric circles consecutively indicating angles ranging from 0 degrees to 90 degrees. Richton therefore fails to disclose the recited LBS program.

Still further, the Examiner admits that neither Richton nor Iwatsuki suggests displaying GPS satellites with different text or pattern in the format recited and relies upon Fig. 1 of Beauregard to disclose GPS satellites indicated with different text or patterns displaying more than one concentric circle and 4 directional intersections, the concentric circles consecutively indicating angles ranging from 0 to 90 degrees. Applicants respectfully disagree and submit that Fig. 1 of Beauregard depicts overlapping elliptical orbits, not concentric circles, and furthermore appears to only be an environmental drawing of the system and nowhere does Beauregard suggest that Fig. 1 is a display item.

Based upon the above, Applicants respectfully submit that the combination of applied references fails to disclose at least the recited test device, a LBS program that displays GPS satellite information, let alone the display of GPS satellite information in concentric circles, as recited in claim 1.

Accordingly, claim 1 is patentable at least due to the failure of the applied references to disclose, teach or motivate all recited features of the claims. Claim 12 recites a method claim based on the apparatus of claim 1, and claim 16 is a product claim based upon claim 1 written in Beauregard format. Claims 2-11, 13-15, 17-22 and 24-38 depend variously from independent claims 1, 12, and 16 and are likewise patentable over the asserted combination of references for at least their dependence on an allowable base claim, as well as for the additional features they recite. Accordingly, withdrawal of this rejection is respectfully requested.

Conclusion

All objections and rejections having been addressed, it is respectfully submitted that the present application should be in condition for allowance and a Notice to that effect is earnestly solicited. Early issuance of a Notice of Allowance is courteously solicited.

Entry of the amendments is proper under 37 CFR §1.116 since the amendments: (a) place the application in condition for allowance (for the reasons discussed herein); (b) do not raise any new issue requiring further search and/or consideration (since the amendments amplify issues previously discussed throughout prosecution); (c) satisfy a requirement of form asserted in the previous Office Action; and (d) place the application in better form for appeal, should an appeal be necessary. The amendments are necessary and were not earlier presented because they are made in response to arguments raised in the final rejection. Entry of the amendments is thus respectfully requested.

The Examiner is invited to telephone the undersigned, Applicants' attorney of record, to facilitate advancement of the present application.

To the extent necessary, a petition for an extension of time under 37 C.F.R. 1.136 is hereby made. Please charge any shortage in fees due in connection with the filing of this paper, including extension of time fees, to Deposit Account 07-1337 and please credit any excess fees to such deposit account.

Respectfully submitted,
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